

EX PARTE OR LATE FILED

BELLSOUTH

Maurice P. Talbot, Jr.
Executive Director-Federal Regulatory

Suite 900
1133 - 21st Street, N.W.
Washington, DC 20036
202 463-4113
Fax: 202 463-4198

August 24, 1994

EX PARTE

DOCKET FILE COPY ORIGINAL

RECEIVED

AUG 25 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W., Room 222
Washington, D.C. 20554

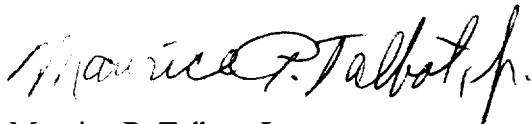
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Dear Mr. Caton:

Attached are the two copies of the written ex parte presentations to Chairman Hundt and Commissioners Quello, Barrett, Chong, and Ness in the above referenced proceedings for inclusion in the public record of each proceeding pursuant to the Commission's ex parte rules at 47 C.F.R. § 1.1200 et seq.

If you have any questions regarding this matter, please do not hesitate to call the undersigned.

Sincerely,



Maurice P. Talbot, Jr.
Executive Director - Federal Regulatory

cc: Chairman Hundt
Commissioner Quello
Commissioner Barrett
Commissioner Chong
Commissioner Ness

No. of Copies rec'd
List ABCDE

0-1

BELLSOUTH
RECEIVED

AUG 25 1994

David J. Markey
Vice President-
Governmental Affairs

1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036
202 463-4101
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Ex Parte

August 25, 1994

Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street N.W., Room 844
Washington, D.C. 20554

RE: Price Caps, CC Docket No. 94-1; Depreciation Simplification,
CC Docket No. 92-296

Dear Commissioner Chong:

BellSouth shares the Commission's goals for the development and deployment of an advanced telecommunications infrastructure that will increase productivity, jobs and economic growth throughout the economy. The Commission can facilitate those goals by identifying and eliminating unnecessary regulatory impediments to the investment of private capital in the infrastructure.

In several recent filings, BellSouth has urged the Commission to adopt meaningful reform of the process by which depreciation rates are established for local exchange carriers (LECs). In CC Docket No. 92-296, Simplification of the Depreciation Prescription Process, BellSouth urged the Commission to adopt a process that would rely principally on the judgment of carrier management as to the future lives of their depreciable assets. Called the "Price Cap Carrier Option", this method would establish a rebuttable presumption that the depreciation rates proposed by carrier management were reasonable. BellSouth proposed data filing requirements and procedural safeguards that would allow meaningful review of management's proposals by the Commission staff and interested parties, thus allowing the Commission to fulfill its statutory mandate under Section 220(b) of the Communications Act. In its Depreciation Simplification Order, 8 FCC Rcd 8025 (1993), the Commission adopted the Price Cap Carrier Option for AT&T, but declined to extend this option to the LECs. Instead, the Commission adopted a "Range of Rates Option" for the Price Cap LECs. BellSouth petitioned for reconsideration of the decision to withhold the Price Cap Carrier Option from the Price Cap LECs. That petition for reconsideration remains pending.

On June 28, 1994, the Commission adopted a Second Report and Order in the Depreciation Simplification Docket, CC Docket No. 92-296. In that order, the Commission

adopted without modification the ranges of depreciation rate factors for 22 plant categories recommended by the Common Carrier Bureau staff. The Order anticipates that this action, "will result in a substantial simplification and resource savings" for both the LECs and the Commission staff. At least insofar as BellSouth is concerned, this is a hollow promise.

The Commission's action to date in Docket 92-296 has been a laborious effort to find a "one size fits all" solution to the regulation of LEC depreciation rates. This was made clear in the June 28 Order where the Commission indicated that it conducted extensive statistical analyses of the basic factors underlying the currently prescribed depreciation rates. The Commission determined the mean value for each factor, calculated a range of one standard deviation around the mean, and then adjusted certain ranges where appropriate. Such an approach systematically excludes from each resulting range up to one-third of the carriers. Unfortunately, among the carriers systematically excluded by such an approach are carriers, such as BellSouth, who have been aggressive in deploying new technology. For example, the Commission has adopted ranges for 22 plant categories in the June 28 Order. BellSouth will be eligible for simplification in only a limited number of plant categories by jurisdiction, representing only 6 percent of BellSouth's assets. Thus, the June 28 order will provide almost no simplification for BellSouth. Even if the Commission follows through on its plan to adopt ranges for the remaining plant categories early in 1995, as proposed in the June 28 Order, BellSouth will receive no benefit. BellSouth will be below or at the bottom end of the range for most or all of these remaining major categories. Hence, BellSouth will get no benefit from the Commission's "simplification."

In addition to denying simplification to carriers aggressively deploying new technology, the Range of Rates Option contains a time lag that prejudices all LECs. By performing statistical studies on depreciation rates prescribed using the triennial review process, the existing prescriptions are up to three years old. Since the data underlying the prescriptions is largely historical, the study data could be four or five years old. To base future prescriptions on such stale data at a time when technology is exploding is a fundamental flaw in the newly adopted procedures.

The reasons given by the Commission for withholding the Price Cap Carrier Option from the LECs were the existence of the sharing mechanism in the LEC price cap plan, and the perceived lack of competition for LEC services. In CC Docket 94-1, Price Cap Performance Review for Local Exchange Carriers, BellSouth joined the rest of the LEC industry and numerous other commenters in recommending the elimination of the sharing mechanism from the LEC price cap plan. Whatever value the sharing mechanism has as a backstop safeguard is far outweighed by the damage done by the retention of this vestige of cost of service regulation. Elimination of the sharing mechanism will permit the Commission to move forward with meaningful depreciation reform for the LECs, using BellSouth's petition for reconsideration in Docket No. 92-296 as a vehicle.

With regard to the issue of the level of competition for LEC access services, BellSouth notes that a substantial factual record was developed in Docket 94-1 as to the rapidly growing competition in major access service markets. In addition, BellSouth finds it

extremely significant that the Commission found it unnecessary to actively regulate the depreciation rates of cable television companies subject to cost of service regulation. By definition, these companies do not face effective competition. Hence, the perceived lack of effective competition cannot justify the retention of the current, highly destructive level of regulation of LEC depreciation rates.

BellSouth believes that if an appropriate regulatory framework is adopted, the LECs will be able to attract the necessary capital to build out their piece of the national information infrastructure. On the other hand, if a stifling regulatory framework is maintained, providers of capital will seek more attractive investments. The evidence presented by Dr. Robert Harris in CC Docket No. 94-1 highlights the critical role that regulation plays in the health (or the demise) of a regulated industry. BellSouth urges the Commission to adopt meaningful reforms that provide positive incentives for the LECs to invest, and reinvest, in their core networks.

Sincerely,



David J. Markey

BELLSOUTH CORPORATION

cc: William F. Caton



David J. Markey
Vice President-
Governmental Affairs

1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036
202 463-4101

Ex Parte

August 25, 1994

Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street N.W., Room 814
Washington, D.C. 20554

RE: Price Caps, CC Docket No. 94-1; Depreciation Simplification,
CC Docket No. 92-296

Reed
Dear ~~Chairman~~ Hundt:

BellSouth shares the Commission's goals for the development and deployment of an advanced telecommunications infrastructure that will increase productivity, jobs and economic growth throughout the economy. The Commission can facilitate those goals by identifying and eliminating unnecessary regulatory impediments to the investment of private capital in the infrastructure.

In several recent filings, BellSouth has urged the Commission to adopt meaningful reform of the process by which depreciation rates are established for local exchange carriers (LECs). In CC Docket No. 92-296, Simplification of the Depreciation Prescription Process, BellSouth urged the Commission to adopt a process that would rely principally on the judgment of carrier management as to the future lives of their depreciable assets. Called the "Price Cap Carrier Option", this method would establish a rebuttable presumption that the depreciation rates proposed by carrier management were reasonable. BellSouth proposed data filing requirements and procedural safeguards that would allow meaningful review of management's proposals by the Commission staff and interested parties, thus allowing the Commission to fulfill its statutory mandate under Section 220(b) of the Communications Act. In its Depreciation Simplification Order, 8 FCC Rcd 8025 (1993), the Commission adopted the Price Cap Carrier Option for AT&T, but declined to extend this option to the LECs. Instead, the Commission adopted a "Range of Rates Option" for the Price Cap LECs. BellSouth petitioned for reconsideration of the decision to withhold the Price Cap Carrier Option from the Price Cap LECs. That petition for reconsideration remains pending.

On June 28, 1994, the Commission adopted a Second Report and Order in the Depreciation Simplification Docket, CC Docket No. 92-296. In that order, the Commission

adopted without modification the ranges of depreciation rate factors for 22 plant categories recommended by the Common Carrier Bureau staff. The Order anticipates that this action, "will result in a substantial simplification and resource savings" for both the LECs and the Commission staff. At least insofar as BellSouth is concerned, this is a hollow promise.

The Commission's action to date in Docket 92-296 has been a laborious effort to find a "one size fits all" solution to the regulation of LEC depreciation rates. This was made clear in the June 28 Order where the Commission indicated that it conducted extensive statistical analyses of the basic factors underlying the currently prescribed depreciation rates. The Commission determined the mean value for each factor, calculated a range of one standard deviation around the mean, and then adjusted certain ranges where appropriate. Such an approach systematically excludes from each resulting range up to one-third of the carriers. Unfortunately, among the carriers systematically excluded by such an approach are carriers, such as BellSouth, who have been aggressive in deploying new technology. For example, the Commission has adopted ranges for 22 plant categories in the June 28 Order. BellSouth will be eligible for simplification in only a limited number of plant categories by jurisdiction, representing only 6 percent of BellSouth's assets. Thus, the June 28 order will provide almost no simplification for BellSouth. Even if the Commission follows through on its plan to adopt ranges for the remaining plant categories early in 1995, as proposed in the June 28 Order, BellSouth will receive no benefit. BellSouth will be below or at the bottom end of the range for most or all of these remaining major categories. Hence, BellSouth will get no benefit from the Commission's "simplification."

In addition to denying simplification to carriers aggressively deploying new technology, the Range of Rates Option contains a time lag that prejudices all LECs. By performing statistical studies on depreciation rates prescribed using the triennial review process, the existing prescriptions are up to three years old. Since the data underlying the prescriptions is largely historical, the study data could be four or five years old. To base future prescriptions on such stale data at a time when technology is exploding is a fundamental flaw in the newly adopted procedures.

The reasons given by the Commission for withholding the Price Cap Carrier Option from the LECs were the existence of the sharing mechanism in the LEC price cap plan, and the perceived lack of competition for LEC services. In CC Docket 94-1, Price Cap Performance Review for Local Exchange Carriers, BellSouth joined the rest of the LEC industry and numerous other commenters in recommending the elimination of the sharing mechanism from the LEC price cap plan. Whatever value the sharing mechanism has as a backstop safeguard is far outweighed by the damage done by the retention of this vestige of cost of service regulation. Elimination of the sharing mechanism will permit the Commission to move forward with meaningful depreciation reform for the LECs, using BellSouth's petition for reconsideration in Docket No. 92-296 as a vehicle.

With regard to the issue of the level of competition for LEC access services, BellSouth notes that a substantial factual record was developed in Docket 94-1 as to the rapidly growing competition in major access service markets. In addition, BellSouth finds it

extremely significant that the Commission found it unnecessary to actively regulate the depreciation rates of cable television companies subject to cost of service regulation. By definition, these companies do not face effective competition. Hence, the perceived lack of effective competition cannot justify the retention of the current, highly destructive level of regulation of LEC depreciation rates.

BellSouth believes that if an appropriate regulatory framework is adopted, the LECs will be able to attract the necessary capital to build out their piece of the national information infrastructure. On the other hand, if a stifling regulatory framework is maintained, providers of capital will seek more attractive investments. The evidence presented by Dr. Robert Harris in CC Docket No. 94-1 highlights the critical role that regulation plays in the health (or the demise) of a regulated industry. BellSouth urges the Commission to adopt meaningful reforms that provide positive incentives for the LECs to invest, and reinvest, in their core networks.

Sincerely,

A handwritten signature in black ink, appearing to read "David J. Markey", with a stylized flourish extending from the end.

David J. Markey

BELLSOUTH CORPORATION

cc: William F. Caton

BELLSOUTH

David J. Markey
Vice President
Governmental Affairs

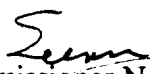
1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036
202 463-4101

Ex Parte

August 25, 1994

Commissioner Susan Ness
Federal Communications Commission
1919 M Street N.W., Room 832
Washington, D.C. 20554

RE: Price Caps, CC Docket No. 94-1; Depreciation Simplification,
CC Docket No. 92-296


Dear Commissioner Ness:

BellSouth shares the Commission's goals for the development and deployment of an advanced telecommunications infrastructure that will increase productivity, jobs and economic growth throughout the economy. The Commission can facilitate those goals by identifying and eliminating unnecessary regulatory impediments to the investment of private capital in the infrastructure.

In several recent filings, BellSouth has urged the Commission to adopt meaningful reform of the process by which depreciation rates are established for local exchange carriers (LECs). In CC Docket No. 92-296, Simplification of the Depreciation Prescription Process, BellSouth urged the Commission to adopt a process that would rely principally on the judgment of carrier management as to the future lives of their depreciable assets. Called the "Price Cap Carrier Option", this method would establish a rebuttable presumption that the depreciation rates proposed by carrier management were reasonable. BellSouth proposed data filing requirements and procedural safeguards that would allow meaningful review of management's proposals by the Commission staff and interested parties, thus allowing the Commission to fulfill its statutory mandate under Section 220(b) of the Communications Act. In its Depreciation Simplification Order, 8 FCC Rcd 8025 (1993), the Commission adopted the Price Cap Carrier Option for AT&T, but declined to extend this option to the LECs. Instead, the Commission adopted a "Range of Rates Option" for the Price Cap LECs. BellSouth petitioned for reconsideration of the decision to withhold the Price Cap Carrier Option from the Price Cap LECs. That petition for reconsideration remains pending.

On June 28, 1994, the Commission adopted a Second Report and Order in the Depreciation Simplification Docket, CC Docket No. 92-296. In that order, the Commission

adopted without modification the ranges of depreciation rate factors for 22 plant categories recommended by the Common Carrier Bureau staff. The Order anticipates that this action, "will result in a substantial simplification and resource savings" for both the LECs and the Commission staff. At least insofar as BellSouth is concerned, this is a hollow promise.

The Commission's action to date in Docket 92-296 has been a laborious effort to find a "one size fits all" solution to the regulation of LEC depreciation rates. This was made clear in the June 28 Order where the Commission indicated that it conducted extensive statistical analyses of the basic factors underlying the currently prescribed depreciation rates. The Commission determined the mean value for each factor, calculated a range of one standard deviation around the mean, and then adjusted certain ranges where appropriate. Such an approach systematically excludes from each resulting range up to one-third of the carriers. Unfortunately, among the carriers systematically excluded by such an approach are carriers, such as BellSouth, who have been aggressive in deploying new technology. For example, the Commission has adopted ranges for 22 plant categories in the June 28 Order. BellSouth will be eligible for simplification in only a limited number of plant categories by jurisdiction, representing only 6 percent of BellSouth's assets. Thus, the June 28 order will provide almost no simplification for BellSouth. Even if the Commission follows through on its plan to adopt ranges for the remaining plant categories early in 1995, as proposed in the June 28 Order, BellSouth will receive no benefit. BellSouth will be below or at the bottom end of the range for most or all of these remaining major categories. Hence, BellSouth will get no benefit from the Commission's "simplification."

In addition to denying simplification to carriers aggressively deploying new technology, the Range of Rates Option contains a time lag that prejudices all LECs. By performing statistical studies on depreciation rates prescribed using the triennial review process, the existing prescriptions are up to three years old. Since the data underlying the prescriptions is largely historical, the study data could be four or five years old. To base future prescriptions on such stale data at a time when technology is exploding is a fundamental flaw in the newly adopted procedures.


The reasons given by the Commission for withholding the Price Cap Carrier Option from the LECs were the existence of the sharing mechanism in the LEC price cap plan, and the perceived lack of competition for LEC services. In CC Docket 94-1, Price Cap Performance Review for Local Exchange Carriers, BellSouth joined the rest of the LEC industry and numerous other commenters in recommending the elimination of the sharing mechanism from the LEC price cap plan. Whatever value the sharing mechanism has as a backstop safeguard is far outweighed by the damage done by the retention of this vestige of cost of service regulation. Elimination of the sharing mechanism will permit the Commission to move forward with meaningful depreciation reform for the LECs, using BellSouth's petition for reconsideration in Docket No. 92-296 as a vehicle.

With regard to the issue of the level of competition for LEC access services, BellSouth notes that a substantial factual record was developed in Docket 94-1 as to the rapidly growing competition in major access service markets. In addition, BellSouth finds it

extremely significant that the Commission found it unnecessary to actively regulate the depreciation rates of cable television companies subject to cost of service regulation. By definition, these companies do not face effective competition. Hence, the perceived lack of effective competition cannot justify the retention of the current, highly destructive level of regulation of LEC depreciation rates.

BellSouth believes that if an appropriate regulatory framework is adopted, the LECs will be able to attract the necessary capital to build out their piece of the national information infrastructure. On the other hand, if a stifling regulatory framework is maintained, providers of capital will seek more attractive investments. The evidence presented by Dr. Robert Harris in CC Docket No. 94-1 highlights the critical role that regulation plays in the health (or the demise) of a regulated industry. BellSouth urges the Commission to adopt meaningful reforms that provide positive incentives for the LECs to invest, and reinvest, in their core networks.

Sincerely,



David J. Markey

BELLSOUTH CORPORATION

cc: William F. Caton

BELLSOUTH

David J. Markey
Vice President
Governmental Affairs

1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036
202 463-4101

Ex Parte

August 25, 1994

Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street N.W., Room 826
Washington, D.C. 20554

RE: Price Caps, CC Docket No. 94-1; Depreciation Simplification,
CC Docket No. 92-296

Dear  Commissioner Barrett:

BellSouth shares the Commission's goals for the development and deployment of an advanced telecommunications infrastructure that will increase productivity, jobs and economic growth throughout the economy. The Commission can facilitate those goals by identifying and eliminating unnecessary regulatory impediments to the investment of private capital in the infrastructure.

In several recent filings, BellSouth has urged the Commission to adopt meaningful reform of the process by which depreciation rates are established for local exchange carriers (LECs). In CC Docket No. 92-296, Simplification of the Depreciation Prescription Process, BellSouth urged the Commission to adopt a process that would rely principally on the judgment of carrier management as to the future lives of their depreciable assets. Called the "Price Cap Carrier Option", this method would establish a rebuttable presumption that the depreciation rates proposed by carrier management were reasonable. BellSouth proposed data filing requirements and procedural safeguards that would allow meaningful review of management's proposals by the Commission staff and interested parties, thus allowing the Commission to fulfill its statutory mandate under Section 220(b) of the Communications Act. In its Depreciation Simplification Order, 8 FCC Rcd 8025 (1993), the Commission adopted the Price Cap Carrier Option for AT&T, but declined to extend this option to the LECs. Instead, the Commission adopted a "Range of Rates Option" for the Price Cap LECs. BellSouth petitioned for reconsideration of the decision to withhold the Price Cap Carrier Option from the Price Cap LECs. That petition for reconsideration remains pending.

On June 28, 1994, the Commission adopted a Second Report and Order in the Depreciation Simplification Docket, CC Docket No. 92-296. In that order, the Commission

adopted without modification the ranges of depreciation rate factors for 22 plant categories recommended by the Common Carrier Bureau staff. The Order anticipates that this action, "will result in a substantial simplification and resource savings" for both the LECs and the Commission staff. At least insofar as BellSouth is concerned, this is a hollow promise.

The Commission's action to date in Docket 92-296 has been a laborious effort to find a "one size fits all" solution to the regulation of LEC depreciation rates. This was made clear in the June 28 Order where the Commission indicated that it conducted extensive statistical analyses of the basic factors underlying the currently prescribed depreciation rates. The Commission determined the mean value for each factor, calculated a range of one standard deviation around the mean, and then adjusted certain ranges where appropriate. Such an approach systematically excludes from each resulting range up to one-third of the carriers. Unfortunately, among the carriers systematically excluded by such an approach are carriers, such as BellSouth, who have been aggressive in deploying new technology. For example, the Commission has adopted ranges for 22 plant categories in the June 28 Order. BellSouth will be eligible for simplification in only a limited number of plant categories by jurisdiction, representing only 6 percent of BellSouth's assets. Thus, the June 28 order will provide almost no simplification for BellSouth. Even if the Commission follows through on its plan to adopt ranges for the remaining plant categories early in 1995, as proposed in the June 28 Order, BellSouth will receive no benefit. BellSouth will be below or at the bottom end of the range for most or all of these remaining major categories. Hence, BellSouth will get no benefit from the Commission's "simplification."

In addition to denying simplification to carriers aggressively deploying new technology, the Range of Rates Option contains a time lag that prejudices all LECs. By performing statistical studies on depreciation rates prescribed using the triennial review process, the existing prescriptions are up to three years old. Since the data underlying the prescriptions is largely historical, the study data could be four or five years old. To base future prescriptions on such stale data at a time when technology is exploding is a fundamental flaw in the newly adopted procedures.


The reasons given by the Commission for withholding the Price Cap Carrier Option from the LECs were the existence of the sharing mechanism in the LEC price cap plan, and the perceived lack of competition for LEC services. In CC Docket 94-1, Price Cap Performance Review for Local Exchange Carriers, BellSouth joined the rest of the LEC industry and numerous other commenters in recommending the elimination of the sharing mechanism from the LEC price cap plan. Whatever value the sharing mechanism has as a backstop safeguard is far outweighed by the damage done by the retention of this vestige of cost of service regulation. Elimination of the sharing mechanism will permit the Commission to move forward with meaningful depreciation reform for the LECs, using BellSouth's petition for reconsideration in Docket No. 92-296 as a vehicle.

With regard to the issue of the level of competition for LEC access services, BellSouth notes that a substantial factual record was developed in Docket 94-1 as to the rapidly growing competition in major access service markets. In addition, BellSouth finds it

extremely significant that the Commission found it unnecessary to actively regulate the depreciation rates of cable television companies subject to cost of service regulation. By definition, these companies do not face effective competition. Hence, the perceived lack of effective competition cannot justify the retention of the current, highly destructive level of regulation of LEC depreciation rates.

BellSouth believes that if an appropriate regulatory framework is adopted, the LECs will be able to attract the necessary capital to build out their piece of the national information infrastructure. On the other hand, if a stifling regulatory framework is maintained, providers of capital will seek more attractive investments. The evidence presented by Dr. Robert Harris in CC Docket No. 94-1 highlights the critical role that regulation plays in the health (or the demise) of a regulated industry. BellSouth urges the Commission to adopt meaningful reforms that provide positive incentives for the LECs to invest, and reinvest, in their core networks.

Sincerely,



David J. Markey

BELLSOUTH CORPORATION

cc: William F. Caton

BELLSOUTH

David J. Markey
Vice President-
Governmental Affairs

1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036
202 463-4101

Ex Parte

August 25, 1994

Commissioner James H. Quello
Federal Communications Commission
1919 M Street N.W., Room 801
Washington, D.C. 20554

RE: Price Caps, CC Docket No. 94-1; Depreciation Simplification,
CC Docket No. 92-296


Dear Commissioner Quello:

BellSouth shares the Commission's goals for the development and deployment of an advanced telecommunications infrastructure that will increase productivity, jobs and economic growth throughout the economy. The Commission can facilitate those goals by identifying and eliminating unnecessary regulatory impediments to the investment of private capital in the infrastructure.

In several recent filings, BellSouth has urged the Commission to adopt meaningful reform of the process by which depreciation rates are established for local exchange carriers (LECs). In CC Docket No. 92-296, Simplification of the Depreciation Prescription Process, BellSouth urged the Commission to adopt a process that would rely principally on the judgment of carrier management as to the future lives of their depreciable assets. Called the "Price Cap Carrier Option", this method would establish a rebuttable presumption that the depreciation rates proposed by carrier management were reasonable. BellSouth proposed data filing requirements and procedural safeguards that would allow meaningful review of management's proposals by the Commission staff and interested parties, thus allowing the Commission to fulfill its statutory mandate under Section 220(b) of the Communications Act. In its Depreciation Simplification Order, 8 FCC Rcd 8025 (1993), the Commission adopted the Price Cap Carrier Option for AT&T, but declined to extend this option to the LECs. Instead, the Commission adopted a "Range of Rates Option" for the Price Cap LECs. BellSouth petitioned for reconsideration of the decision to withhold the Price Cap Carrier Option from the Price Cap LECs. That petition for reconsideration remains pending.

On June 28, 1994, the Commission adopted a Second Report and Order in the Depreciation Simplification Docket, CC Docket No. 92-296. In that order, the Commission

adopted without modification the ranges of depreciation rate factors for 22 plant categories recommended by the Common Carrier Bureau staff. The Order anticipates that this action, "will result in a substantial simplification and resource savings" for both the LECs and the Commission staff. At least insofar as BellSouth is concerned, this is a hollow promise.

The Commission's action to date in Docket 92-296 has been a laborious effort to find a "one size fits all" solution to the regulation of LEC depreciation rates. This was made clear in the June 28 Order where the Commission indicated that it conducted extensive statistical analyses of the basic factors underlying the currently prescribed depreciation rates. The Commission determined the mean value for each factor, calculated a range of one standard deviation around the mean, and then adjusted certain ranges where appropriate. Such an approach systematically excludes from each resulting range up to one-third of the carriers. Unfortunately, among the carriers systematically excluded by such an approach are carriers, such as BellSouth, who have been aggressive in deploying new technology. For example, the Commission has adopted ranges for 22 plant categories in the June 28 Order. BellSouth will be eligible for simplification in only a limited number of plant categories by jurisdiction, representing only 6 percent of BellSouth's assets. Thus, the June 28 order will provide almost no simplification for BellSouth. Even if the Commission follows through on its plan to adopt ranges for the remaining plant categories early in 1995, as proposed in the June 28 Order, BellSouth will receive no benefit. BellSouth will be below or at the bottom end of the range for most or all of these remaining major categories. Hence, BellSouth will get no benefit from the Commission's "simplification."

In addition to denying simplification to carriers aggressively deploying new technology, the Range of Rates Option contains a time lag that prejudices all LECs. By performing statistical studies on depreciation rates prescribed using the triennial review process, the existing prescriptions are up to three years old. Since the data underlying the prescriptions is largely historical, the study data could be four or five years old. To base future prescriptions on such stale data at a time when technology is exploding is a fundamental flaw in the newly adopted procedures.

The reasons given by the Commission for withholding the Price Cap Carrier Option from the LECs were the existence of the sharing mechanism in the LEC price cap plan, and the perceived lack of competition for LEC services. In CC Docket 94-1, Price Cap Performance Review for Local Exchange Carriers, BellSouth joined the rest of the LEC industry and numerous other commenters in recommending the elimination of the sharing mechanism from the LEC price cap plan. Whatever value the sharing mechanism has as a backstop safeguard is far outweighed by the damage done by the retention of this vestige of cost of service regulation. Elimination of the sharing mechanism will permit the Commission to move forward with meaningful depreciation reform for the LECs, using BellSouth's petition for reconsideration in Docket No. 92-296 as a vehicle.

With regard to the issue of the level of competition for LEC access services, BellSouth notes that a substantial factual record was developed in Docket 94-1 as to the rapidly growing competition in major access service markets. In addition, BellSouth finds it

extremely significant that the Commission found it unnecessary to actively regulate the depreciation rates of cable television companies subject to cost of service regulation. By definition, these companies do not face effective competition. Hence, the perceived lack of effective competition cannot justify the retention of the current, highly destructive level of regulation of LEC depreciation rates.

BellSouth believes that if an appropriate regulatory framework is adopted, the LECs will be able to attract the necessary capital to build out their piece of the national information infrastructure. On the other hand, if a stifling regulatory framework is maintained, providers of capital will seek more attractive investments. The evidence presented by Dr. Robert Harris in CC Docket No. 94-1 highlights the critical role that regulation plays in the health (or the demise) of a regulated industry. BellSouth urges the Commission to adopt meaningful reforms that provide positive incentives for the LECs to invest, and reinvest, in their core networks.

Sincerely,



David J. Markey

BELLSOUTH CORPORATION

cc: William F. Caton